

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

STEVEN E. FORTNEY,

Plaintiff,

v.

ORDER

09-cv-192-slc

LT. CHRIS STEVENS, C.O. III DAVID LONGSINE,
JERMEY LEIRMO, LUKE FULLMER, COLE
COOPMAN, LARRY DILLENBERG, BRIAN VAN LOO,
NURSE MARILYN VANTERKINTER and NURSE
KATHY LEMENS,

Defendants.

On November 10, 2009 I granted defendants' motion for summary judgment because of plaintiff's failure to exhaust his administrative remedies on his claim that defendants violated his Eighth Amendment rights. Now before the court is plaintiff's notice of appeal. Because plaintiff has not paid the \$455 fee for filing a notice of appeal, I construe the notice as including a request for leave to proceed *in forma pauperis* on appeal.

A district court has authority to deny a request for leave to proceed in forma pauperis under 28 U.S.C. § 1915 for one or more of the following reasons: the litigant wishing to take an appeal has not established indigence, the appeal is in bad faith or if the litigant is a prisoner and has three strikes. § 1915(a)(1),(3) and (g). *Sperow v. Melvin*, 153 F.3d 780, 781 (7th Cir 1998). Plaintiffs' request for leave to proceed *in forma pauperis* on appeal will be denied because he has not submitted any documentation that his is indigent. Because he paid the filing fee in this case, he will have to pay the filing fee for his appeal because he has not shown that he is indigent.

Copy of this document has been
provided to Fortney
File Day of Dec, 2009
by G. A. Korfh
G. A. Korfh, Secretary to
Magistrate Judge Crocker

ORDER

IT IS ORDERED that plaintiff's request to proceed *in forma pauperis* on appeal, dkt. 87, is DENIED.

Entered this 10th day of December, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge